IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3742 OF 2004

Ramavtar Agarwal ... Applicant

versus

State of Maharashtra & anr. ... Respondents

...

Mr. Rishi Buuta, for the Applicant.

Mr. A.S. Gadkari, A.P.P., for Respondent No. 1.

Ms. Lima Agarwal for Respondent No. 2.

...

CORAM : A.M.KHANWILKAR,J.

29th September 2004

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. Gadkari, A.P.P., waives notice for Respondent No. 1. Ms. Agarwal waives notice for Respondent No. 2. As short question is involved, petition is taken up for final disposal forthwith by consent.

. The Petitioner and Respondent No. 2 are related to each other. Petitioner is son of

Respondent No. 2. Respondent No. 2 lodged complaint against the Petitioner for offence punishable under section 326 of the Indian Penal Code being Cr.No. 10/1995 with the Andheri Police Station. The Metropolitan Magistrate's Court at Andheri has taken cognisance of the offence after filing of the charge sheet and the case is now numbered as 192/P/1995. During the pendency of the proceedings, the Petitioner and Respondent No. 2 have amicably resolved all their civil disputes by filing consent terms before this Court in Suit No. 4235 of 1994. The parties have also agreed that the Respondent No. 2 will withdraw all the allegations and that they will take steps for quashing of the pending criminal proceedings against the Petitioner. In the backdrop of the said agreement, the Petitioner moved application before the concerned Magistrate for compounding of offence under section 326, I.P.C. The Magistrate by his order dated 29th June 2004 has, however, rejected the application on the ground that the offence is non-compoundable and he has no jurisdiction to accede to the request made on behalf of the parties. Indeed, no fault can be found with the approach of the Magistrate in rejecting the

application if the offence was non-compoundable. Be that as it may, the Petitioner has now approached this Court by way of present petition amongst others for quashing all the criminal proceedings pending against him. As mentioned earlier, as the parties are closely related, being father and son, and all civil disputes have been amicably resolved between them inter se, in the interest of justice, the appropriate course, to my mind, is to quash the pending criminal proceedings against the Petitioner. Such order is necessary to do substantial justice between the parties. Accordingly, this petition succeeds in terms of prayer clause (b). Ordered accordingly.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)